

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

980D0684

HOUSE ENGROSSED NO. **SB124** - 2/24/00

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsors.

Introduced by: Senator Brown (Arnold) and Representative Fiegen

1 FOR AN ACT ENTITLED, An Act to allow the transfer of funds from certain nursing facilities
2 to the intergovernmental transfer fund.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 28-6 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Terms used in this Act mean:

7 (1) "Department," the Department of Social Services;

8 (2) "Fiscal period," up to a twelve-month period determined by the department;

9 (3) "Funding pool," pool of funds established in accordance with section 2 of this Act;

10 (4) "Intergovernmental transfer fund," the fund established to hold the federal portion of
11 the monetary difference between the medicaid payment and the medicare upper limits
12 maximum allowable reimbursement, less transaction fees paid to publicly owned and
13 operated nursing facilities;

14 (5) "Medical assistance," the medicaid program authorized by Title XIX of the Social
15 Security Act, 42 U.S.C.1396d, as amended through January 1, 2000, which provides
16 medical assistance to eligible individuals and is operated under § 28-6-1;

1 (6) "Medicare," the Health Insurance for the Aged Act, Title XVIII of the Social Security
2 Amendments of 1965 and as amended through January 1, 2000;

3 (7) "Nursing facility," any facility participating in medicaid that is licensed, maintained,
4 and operated for the express or implied purpose of providing care to one or more
5 persons, whether for consideration or not, who are not acutely ill but require nursing
6 care and related medical services of such complexity as to require professional nursing
7 care under the direction of a physician twenty-four hours a day;

8 (8) "Political subdivision," any municipality or county;

9 (9) "Publicly owned and operated nursing facility," a nursing facility that is owned and
10 operated by a political subdivision of the state and is participating in medicaid.

11 Section 2. That chapter 28-6 be amended by adding thereto a NEW SECTION to read as
12 follows:

13 The department shall establish a funding pool consisting of an amount annually calculated
14 by multiplying the total of all medical assistance resident days of all nursing homes during the
15 fiscal period during which a resident was eligible for and received benefits under chapter 28-6
16 times an amount that does not exceed the amount that can reasonably be estimated to be paid
17 under payment principles established under medicare, reduced by the medical assistance payment
18 rates set for each such resident, for each such day, during the fiscal period.

19 Section 3. That chapter 28-6 be amended by adding thereto a NEW SECTION to read as
20 follows:

21 In addition to any payment made pursuant to a rate set under this Act, and notwithstanding
22 any other provision of this Act, the department shall pay to each publicly owned and operated
23 nursing facility participating under the provisions of this Act an amount determined by:

24 (1) Dividing that facility's total medical assistance resident days for the fiscal period by
25 the total medical assistance resident days of all publicly owned and operated nursing

1 facilities participating under the provisions of this Act for the fiscal period; and

2 (2) Multiplying a decimal fraction determined under subdivision (1), times the funding
3 pool amount determined under section 2 of this Act.

4 Section 4. That chapter 28-6 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Each publicly owned and operated nursing facility participating under the provisions of this
7 Act, immediately upon receiving a payment under section 3 of this Act, shall remit the amount
8 of that payment, less a transaction fee, to the department for credit to:

9 (1) The intergovernmental transfer fund in an amount equal to the applicable federal
10 medical assistance percentage times the total remittance to the department, less the
11 transaction fee; and

12 (2) The department's other funds for all remaining amounts.

13 Section 5. That chapter 28-6 be amended by adding thereto a NEW SECTION to read as
14 follows:

15 Notwithstanding any other provision of law governing the operation of a publicly owned and
16 operated nursing facility, a publicly owned and operated nursing facility participating under the
17 provisions of this Act may receive and immediately upon receipt shall remit payments provided
18 under section 3 and 4 of this Act. No payment is required under this section for any period in
19 which the use of funds for the purposes of this Act are prohibited due to action by the secretary
20 of the United States Department of Health and Human Services.

21 Section 6. That chapter 28-6 be amended by adding thereto a NEW SECTION to read as
22 follows:

23 There is hereby established in the state treasury a fund known as the intergovernmental
24 transfer fund. The fund shall include revenue received from publicly owned and operated nursing
25 facilities for remittance to the fund under section 4 of this Act. The department shall administer

1 the fund and shall adopt procedures for participation by publicly owned and operated nursing
2 facilities. All moneys designated for the fund from whatever source derived shall be deposited
3 with the state treasurer in the intergovernmental transfer fund. The amounts in the
4 intergovernmental transfer fund shall be invested pursuant to §§ 4-5-23 and 4-5-26 and the
5 earnings shall be deposited in the intergovernmental transfer fund.

6 Section 7. That chapter 28-6 be amended by adding thereto a NEW SECTION to read as
7 follows:

8 Funds appropriated to the department for purposes authorized under § 28-6-1 may be used
9 for the purposes of making payments pursuant to section 3 of the Act each fiscal year.

10 Section 8. That chapter 28-6 be amended by adding thereto a NEW SECTION to read as
11 follows:

12 The department may promulgate rules pursuant to chapter 1-26 for the administration of this
13 Act. The rules may include criteria for establishing, funding, and administering the pool, criteria
14 for participation in the intergovernmental transfer, penalties for failing to immediately remit the
15 funds to the department, criteria for the transfer of funds, the establishment of transaction fees,
16 and other policies to facilitate the administration of the intergovernmental transfer fund or the
17 funding pool.

18 Section 9. That chapter 28-6 be amended by adding thereto a NEW SECTION to read as
19 follows:

20 This Act does not create an entitlement to any funds. The department may disburse funds to
21 the extent funds are available and, within its discretion, to the extent such appropriations are
22 approved.

23 Section 10. That § 28-6-1 be amended to read as follows:

24 28-6-1. The Department of Social Services may provide medical services and medical or
25 remedial care on behalf of persons having insufficient income and resources to meet the

1 necessary cost thereof, if the person has exhausted all other possible public and private medical
2 and remedial care programs, income or benefits, with the exception of county poor relief, in
3 accordance with rules which the secretary of social services shall adopt pursuant to chapter 1-26
4 in accordance with the provisions of Title XIX and Title XXI of the federal Social Security Act,
5 as amended to January 1, 2000. The rules shall specify the individuals and services for which
6 state funds or federal financial participation are available and may include:

- 7 (1) The amount, scope, and duration of medical and remedial services;
- 8 (2) The basis for and extent of provider payments on behalf of an eligible person;
- 9 (3) The establishment and collection of copayments, premiums, fees, or charges for
10 sharing the cost of risk protection or services provided to persons. All such
11 collections shall be remitted to the general fund;
- 12 (4) Methods of administration found necessary for the operation of the medical assistance
13 program;
- 14 (5) Safeguards against the disclosure or improper use of information, required by
15 statutory law to be held confidential, concerning applicants for or recipients of
16 medical assistance; and
- 17 (6) Such other requirements as may be necessary to obtain federal financial participation
18 in the medical assistance program.

1 **BILL HISTORY**

2 1/19/00 First read in Senate and referred to Health and Human Services. S.J. 115

3 2/7/00 Scheduled for Committee hearing on this date.

4 2/7/00 Health and Human Services Do Pass, Passed, AYES 6, NAYS 0. S.J. 337

5 2/8/00 Senate Do Pass, Passed, AYES 34, NAYS 1. S.J. 354

6 2/9/00 First read in House and referred to Health and Human Services. H.J. 549

7 2/18/00 Health and Human Services Hog Housed.

8 2/18/00 Scheduled for Committee hearing on this date.

9 2/18/00 Health and Human Services Do Pass Amended, Passed, AYES 10, NAYS 1. H.J. 743

10 2/23/00 House of Representatives Deferred to another day, AYES 56, NAYS 8. H.J. 832